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Paper No. 6

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NOV 04 2002

In re Application of:  
Tyler Tierney, Kurt Tierney, Thomas :  
A. Wozny, Nicholas Nanos, Luc :  
Heiligenstein and Geoffry Boyer :  
Application No. 10/068,196 :  
Filed: February 4, 2002 :  
Title of Invention: STEERABLE :  
IN-LINE STREET SKI :

OFFICE OF PETITIONS

DECISION REFUSING  
STATUS

UNDER 37 CFR 1.47(a)

This is a decision on the Petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 4, 2002, without a fully executed oath or declaration. Accordingly, on February 28, 2002, a "Notice to File Missing Parts of Nonprovisional Application" (hereinafter "Notice") was mailed to Petitioner. The Notice required, in relevant part, a fully executed oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) as set forth above.

As to item (2), Petitioner has failed to provide an acceptable oath or declaration. Petitioner submits several declarations listing one inventor on each declaration with no indication as to the identity of the other inventors. The individual declarations also lack page numbers and provide no indication that other inventors exist other than the signature block; however, the signature block lists each inventor as the "First Joint Inventor".

The Manual for Patent Examining Procedure ("MPEP"), section 602, Sole or Joint Designation, provides:

When joint inventors execute separate oaths or declarations, each oath or declaration should make reference to the fact that affiant is a joint inventor together with each of the

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other inventors indicating them by name. This may be done by stating that he or she does verily believe himself to be the original, first and joint inventor together with "A" or "A & B, etc." as the facts may be. (Emphasis supplied)

Further as to item (2), Petitioner has not provided an oath or declaration listing all inventors. The MPEP 409.03(a) further provides:

All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.75 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available inventors on behalf of the nonsigning inventor(s) unless otherwise indicated. (Emphasis supplied).

MPEP 409.03(a).

A Declaration identifying all inventors to all inventors, signed by the available inventors with the signature block of the non-signing inventor(s) left blank, is required.

Finally, as to item (2), the oath or declaration has been altered, however, the alterations have not been initialed and/or dated as is required by 37 CFR 1.52(c). Specifically, the declaration signed by inventor Tyler Tierney has been altered; however, the alteration has not been initialed by Tyler Tierney. A properly executed oath or declaration which complies with 37 CFR 1.67(a) is required. See, MPEP 605.04(a).

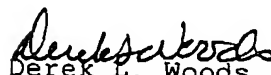
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By FAX: (703) 308-6916  
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23  
2201 S. Clark Place  
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

  
Derek L. Woods  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy